

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

GODINA JONES, and all others)
similarly situated,)
Plaintiffs,)
vs.) 2:05cv1052
MICHAEL E. LAMB,) **Electronic Filing**
Prothonotary Court of Common)
Pleas of Allegheny County, PA)
and **CONSTABLE JOHN A. SNYDER**)
Defendants.)

ORDER OF COURT

AND NOW, this 12th day of April 2006, upon consideration of the Plaintiffs' Motion for Preliminary Injunction on Behalf of the Class (**Document No. 29**), and incorporating the findings of the Order for Preliminary Injunction entered on behalf of Godina Jones dated August 8, 2005, and the Order granting Class Certification, entered October 25, 2005, the Court finds:

a. This Court has jurisdiction pursuant to 28 U.S.C. § 1331;
b. There is a likelihood of Plaintiffs' success on the merits. Furthermore, there is a risk of irreparable harm to the members of the Plaintiff Class if preliminary relief is not granted while there is no risk of harm to the Defendants. Moreover, an issuance of an injunction will serve the public interest. Accordingly,

IT IS HEREBY ORDERED:

1. Defendant Prothonotary is enjoined from refusing to issue supersedeas to indigent residential tenants of Allegheny County who appeal from magisterial district court decisions for possession of their leaseholds based upon a finding of rent in arrears, so long as these appellants deposit with the Prothonotary their ongoing monthly rent during the course of their *de novo* trials in the Court of Common Pleas for Allegheny County, Pennsylvania.

2. Class members shall establish their indigency for purposes of this injunction by filing with the Prothonotary an affidavit at the time of filing their appeal with the Defendant Prothonotary. The affidavit shall affirm under penalty of perjury that the person taking the appeal from a magistrate district judge determination of rent owing is either the recipient of federally subsidized housing assistance or would be eligible for assistance under Section 8 income guidelines current at the time of filing the appeal.

3. The tenant appellant shall pay: (a) at the time of filing the appeal. A sum of money equal to one-third (1/3) of the monthly rent; (b) an additional amount of two-thirds (2/3) of the monthly rent within twenty (20) days of the appeal; and (c) additional deposits of one (1) month's rent each successive thirty (30) day period after the filing of the appeal. The amount of rent shall be established by the magistrate district judge unless the tenant is a resident of federally subsidized housing, in which case the tenant shall pay the tenant share of the rent as set forth in the affidavit filed by the tenant appellant with the Prothonotary.

4. A supersedeas shall be entered by Defendant Lamb, or his successor, whenever a tenant files a Tenant Supersedeas Affidavit and either proof of participation in a federally subsidized housing program or an affidavit verifying that the tenant's income does not exceed the income eligibility guidelines for the Section 8 program administered by the Pittsburgh Housing Authority and when the deposit required by Paragraph 3 has been received by the Prothonotary.

5. If the Court of Common Pleas of Allegheny County determines, upon motion, that the averments in the tenant's affidavit do not establish that the tenant meets the terms and conditions of this Order, the Court of Common Pleas may terminate the supersedeas.

6. The tenant shall be required to pay into escrow with the Prothonotary the ongoing rent as required in Paragraph 3 above in order to continue to maintain the supersedeas on appeal.

7. Plaintiffs and Defendant Prothonotary shall confer and agree on the notices created and used to implement this Order.

s/ David Stewart Cercone
David Stewart Cercone
United States District Judge

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